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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/450,264 | 11/29/1999 | BRIAN D. LOUNSBERRY | 15-XT-5197(7 | 7392 |

7590 08/12/2002

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EXAMINER

LAU, TUNG S

ART UNIT

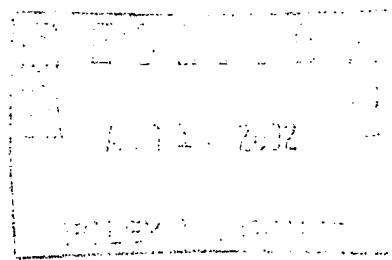
PAPER NUMBER

2863

DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

RESPONSE DUE 11-12-02



8/19-02
SAM
21/7/02
eric

| | | |
|------------------------------|------------------------|-------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/450,264 | LOUNSBERRY ET AL. |
| | Examiner Tung S Lau | Art Unit 2863 |

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 November 1999.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-22 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

Double patenting rejection

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-22 are rejected under the judicially created doctrine of double patenting over claims 1-22 of U. S. Patent No. 6,325,540 and claims 1-25 of U. S. Patent No 6,412,980 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: A method, apparatus and system of associated a field replaceable unit with a medical system comprising querying information, configuring, and receiving information on the field replaceable unit in accordance with the information.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of

the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

a. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (U.S. Patent 4,881,230) in view of Berglund et al. (U.S. Patent 6,427,176).

Clark discloses a method for associating a field replaceable medical diagnostic system for information on a field replaceable unit, receiving information and configuring the system in accordance with information, memory circuit attached, data for configuring the system (col. 80, lines 45-64, col. 1 lines 65-13), using network configuration (fig. 25, col. 13, lines 25-60), identification of each replaceable unit (fig. 1b-11), verification of subsystems, communication data of a replaceable unit (col. 26, lines 1-14, fig. 3-10), a storage medium, a program digital process circuit communication via network, mean for configuring the information (fig. 1b-78).

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Clark does not disclose the querying information or to gather information, Berglund disclose such application to gather subsystem identification information (col. 4, lines 45-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Clark to have the querying information taught by Berglund in order to gather subsystem identification information.

Clark does not disclose the system operating with x-ray tube, but It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Clark to have the system operating with x-ray tube since medical system include the use of an x-ray tube machine.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John S Hilten can be reached on 703-308-0719. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TL

August 5, 2002

JOHN S. HILLEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

| | | | | |
|-----------------------------------|--|-------------------------|---|-------------|
| Notice of References Cited | | Application/Control No. | Applicant(s)/Patent Under Reexamination | |
| | | 09/450,264 | LOUNSBERRY ET AL. | |
| Examiner | | Art Unit | | Page 1 of 1 |
| Tung S Lau | | 2863 | | |

U.S. PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|-------------------------------------|---|--|-----------------|-------------------|----------------|
| <input checked="" type="checkbox"/> | A | US-6,412,980 | 07-2002 | Lounsberry et al. | 378/114 |
| <input checked="" type="checkbox"/> | B | US-6,325,540 | 12-2001 | Lounsberry et al. | 378/114 |
| <input checked="" type="checkbox"/> | C | US-4,881,230 | 11-1989 | Clark et al. | 370/242 |
| <input checked="" type="checkbox"/> | D | US-6,427,176 | 07-2002 | Berglund et al. | 710/104 |
| | E | US- | | | |
| | F | US- | | | |
| | G | US- | | | |
| | H | US- | | | |
| | I | US- | | | |
| | J | US- | | | |
| | K | US- | | | |
| | L | US- | | | |
| | M | US- | | | |

FOREIGN PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
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NON-PATENT DOCUMENTS

| | | |
|---|---|---|
| * | | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) |
| | U | |
| | V | |
| | W | |
| | X | |

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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Quality Assurance Specialists:

Don Hajec.....703-308-4075 Paul Dzierzynski.....703-308-4822

If the contents of the attached correspondence have any clerical omissions, e.g., missing references or pages, illegible text, or any other similar errors, please contact us at the number below. We will take appropriate action to expedite the necessary corrections. Also, if you have general questions concerning any application assigned to Technology Center 2800, please contact our Customer Service Center. Questions concerning the merits of the application must be directed to the Examiner in charge of the particular application, then to the supervisor if appropriate.

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Directors, Technology Center 2800

Semi-conductors, Electrical, Optical Systems & Components

| | | |
|--------------------|--------------|---------|
| Sharon Gibson | 703/308-0658 | 2810 |
| Rolf G. Hille | 703/306-0658 | 2820 |
| Richard Seidel | 703/306-3431 | 2830/40 |
| Howard N. Goldberg | 703/306-3431 | 2850/60 |
| Janice A. Falcone | 709/308-0530 | 2870/80 |